REMARKS

The present invention concerns the production of cured meat-based products from the entire muscular tissue, such as, for example, ham, turkey fillet, etc., by the addition of cold olive oil. More specifically, new claim 3 of the present application relates to a method of production of meat-based products from entire muscular tissue by the cold incorporation of olive oil, wherein the addition of the olive oil occurs after the extraction of the muscular tissue's meat proteins, which method comprises the following steps:

(a) an entire muscular tissue, at low temperature, is injected with an appropriate brine, comprising water, salt and/or seasonings;

(b) inserting the injected muscular tissue into a tumbling machine under vacuum subjecting the injected muscular tissue to tumbling according to known techniques, while maintaining the injected muscular tissue at a temperature below 4°C;

(c) tumbling is ended, and the cold olive oil is added;

(d) tumbling resumes until the complete incorporation of the olive oil is achieved; and

(e) the production procedure continues according to known techniques, such as stuffing the resulting mixture into casings, a heat treatment, and packing; taking special care so that the temperature of the mixture does not rise to 4°C prior to a heat treatment.

The contribution of the present invention to the art is the surprising fact that the present invention provides olive oil containing cured meat-based products from entire muscular tissue that have an exceptionally stable structure virtually without the occurrence of any olive oil

exudation. This exceptionally stable structure of meat-based products of the present invention is due to the novel production method claimed, and, in particular, to the individual process features underlying this method, which enable the creation of a stable emulsion between the added olive oil, water and the muscular tissue after the extraction of its meat proteins, namely,

(i) the low temperature not exceeding 4°C prior to heat treatment; and

(ii) the delayed addition of the cold olive oil until after the entire muscular tissue has been injected with an appropriate brine and has been fully tumbled in order to fully extract the muscular tissue's meat proteins, accompanied by a second tumbling step after adding the cold olive oil.

In the Office Action mailed June 4, 2009, claims 1 and 2 were rejected under 35 U.S.C. §112, second paragraph, for the specific reasons noted on pages 6 and 7 of the Office Action. By the foregoing cancellation of claims 1 and 2, and the presentation of a new claim 3, Applicant believes that all deficiencies in claims 1 and 2 that gave rise to their rejection under 35 U.S.C. §112, second paragraph, have been corrected in new claim 3.

Claims 1 and 2 were also rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as being obvious over Published U.S. Patent Application No. 2003/0049364 of Domazakis (hereinafter "D1"). For the reasons that follow, Applicant traverses the rejection of new claim 3 on these same grounds.

As already mentioned above, new claim 3 relates to a method for the production of cured meat based products from entire muscular tissue that contain cold olive oil. However, a method for preparing cured meat based products from entire muscular tissue, and in particular the method claimed according to new Claim 3 of the present application, is nowhere disclosed within D1.

Contrary to new claim 3 of the present application, D1 does not relate to cured meat-based products from entire muscular tissue, such as, for example, ham or turkey fillet, but rather relates to a completely different category of sausage precuts, namely emulsion-type meat-based products, such as, for example, ring bologna, frankfurter-type sausages, pariza, wienerwurst, etc., and to a method for their production (see, e.g., D1, paragraphs [0001]-[0007], in particular paragraph [0006] ("obtainment of a solid emulsion-meat paste of firm structure . . ."; emphasis added); paragraph [0011] (". . . creation of meat-paste"; emphasis added); paragraph [0012] (". . . non-stablized tendencies, not only of the emulsion of the meat-paste but also of the final products . . ."; emphasis added); paragraph [00310] (". . . one significant aim is the insurance of a stable behavior of the emulsion meat-past . . ."; emphasis added); paragraph [0038] ("Thin-chopped non-fat meat . . . is mixed with H_2O . . . in a machine of mixture . . ."; emphasis added)).

The method for the production of emulsion-type meat-based products described in D1 differs from the method of the present invention in many key respects. For example, the method described in D1 uses thin-chopped, non-fat meat, instead of entire muscular tissue as disclosed in the present invention, in order to produce the meat paste required for the preparation of the emulsion-type meat based products disclosed in D1 (see, e.g., D1, paragraphs [0038], [0006], [0011], [0012] and [0031]).

Further, the thin-chopped, non-fat meat used in D1 is mixed with water, salt, polyphosphoric salts, preservatives and spices in a mixing machine, such as a meat grinder or cutter commonly used for making emulsion-type meat-based products (see, e.g., D1, paragraph [0038]). However, there is no indication in D1 that the emulsion-type meat-based products are injected with brine, comprising water, salt and/or seasonings, using an appropriate injection machine, such as a multi-needle injector, as taught by the present application.

Moreover, D1 does not contain any disclosure that the D1 meat mass is tumbled using a conventional tumbling machine under vacuum that works the meat mechanically so that the structure of the musculature of the meat tissue loosens, the cells break up, the cell membrane gets more permeable, and the brine absorption becomes easier. Again, contrary to the present application, the thin-chopped meat used according to D1 is mixed in an appropriate mixing machine, normally a meat grinder or cutter, but is certainly not tumbled (see, e.g., D1, paragraph [0038]). In this context, it is also pointed out that the use of tumbling in connection with the method described in D1 would not make any sense, since the meat used in D1 is already finely grinded, and thus does not need a further mechanical working in order to loosen the structure of the meat mass to break up the cells and to make the cell membranes more permeable. In particular, by no means would the average skilled person be tempted to use a tumbler, a machine characteristically used for treating whole pieces of entire muscular tissue, for making emulsion-type meat-based products described in D1.

Furthermore, according to D1, the olive oil used for making the meat-based products described therein is added after the thin-chopped meat is initially mixed with H_2O, salt, polyphosphoric salts, preservatives and spices, and is only then incorporated by further mixing the meat mass in a meat grinder or cutter (see, e.g., D1, paragraph [0038]). There is, however, absolutely no disclosure in D1 regarding a further step of tumbling after the addition of the olive oil. For the reasons set out above, such a tumbling step would make no sense whatsoever in connection with the preparation of emulsion-type meat-based products of D1.

For all the reasons set forth above, Applicant requests entry of the Substitute Specification attached hereto, entry of the claim amendments proposed, and a favorable reconsideration of the claim of the present application over all the prior art of record.

Respectfully submitted,

By: _____

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